



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2016-0053; FRL-9955-69-Region 3]

Approval and Promulgation of Air Quality Plans; State of Maryland; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a section 111(d)/129 plan submitted by the State of Maryland for existing hospital/medical/infectious waste incineration (HMIWI) units. The section 111(d)/129 plan contains revisions to a previously-approved state plan for existing HMIWI units and was submitted as a result of the October 6, 2009 promulgation of federal new source performance standards (NSPS) and emission guidelines for HMIWI units, which were subsequently amended on April 4, 2011. This action is being taken under sections 111(d) and 129 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[insert date 30 days from date of publication]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0053 at <http://www.regulations.gov>, or via email to campbell.dave@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit

electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, (215) 814-2039, or by e-mail at gordon.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 129 of the CAA requires EPA to establish performance standards and emission guidelines for various types of new and existing solid waste incineration units. Section 129(b)(2) requires states to submit to EPA for approval section 111(d)/129 plans that implement and enforce the promulgated emission guidelines. Section 129(b)(3) requires EPA to promulgate a federal plan (FP) within two years from the date on which the emission guidelines, or revision to the emission guidelines, is promulgated. The FP is applicable to affected facilities when the state has failed to receive EPA approval of the section 111(d)/129 plan. The FP remains in effect until

the state submits and receives EPA approval of its section 111(d)/129 plan. State submittals under CAA sections 111(d) and 129 must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Ce, and the requirements of 40 CFR part 60, subpart B and part 62, subpart A. Section 129 of the CAA regulates air pollutants that include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, and mercury), hydrogen chloride, sulfur dioxide, nitrogen oxides, and particulate matter (which includes opacity).

On January 10, 2013, the Maryland Department of the Environment (MDE) submitted revisions to its section 111(d)/129 plan for HMIWI units that was previously approved by EPA on September 5, 2000 (65 FR 53608). The revisions address EPA's October 6, 2009 final rule (74 FR 51367) and April 4, 2011 amendments (76 FR 18407) for Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators, 40 CFR part 60, subparts Ec and Ce. Included with Maryland's plan are amendments to Code of Maryland Regulations (COMAR) 26.11.08, entitled "Control of Incinerators," specifically regulations .01, .02, and .08-1 and adoption/amendments to new regulation .08-2. EPA's proposed approval of Maryland's HMIWI revisions amends state HMIWI regulations .01, .02, .08-1, and .08-2 of COMAR 26.11.08 to comport with the corresponding federal regulations. Unrevised portions of the previous state plan approved on September 5, 2000 remain in place.

II. Summary of Maryland's Section 111(d)/129 Plan for Existing HMIWI Units

EPA has reviewed the Maryland section 111(d)/129 plan submittal in the context of the requirements of 40 CFR part 60, subparts B, Ec and Ce, and part 62, subpart A. EPA has

determined that the submitted section 111(d)/129 plan meets the above-cited requirements.

Thus, EPA proposes to approve the above the submitted plan. EPA's proposed approval in this action is limited to the regulations addressing HMIWI units as identified by Maryland in its section 111(d)/129 plan submittal under COMAR 26.11.08, specifically, regulations .01, .02, .08-1, and .08-2.¹ A detailed explanation of the rationale behind this proposed approval is available in the July 22, 2016 technical support document (TSD). The TSD is available in the docket for this rulemaking and online at www.regulations.gov.

III. Proposed Action

EPA is proposing to approve the Maryland section 111(d)/129 plan for HMIWI units submitted pursuant to 40 CFR part 60, subpart Ce because the plan is at least as stringent as requirements in 40 CFR part 60, subpart Ce. Therefore, EPA is proposing to amend 40 CFR part 62, subpart V to reflect this action. The scope of the proposed approval of the section 111(d)/129 plan is limited to the provisions of 40 CFR parts 60 and 62 for existing HMIWI units, as referenced in the emission guidelines, subpart Ce.

The EPA Administrator continues to retain authority for several tasks affecting the regulation of HMIWI units, as stipulated in 40 CFR 60.32e(k) and 60.50c(i). This retention of authority includes the granting of waivers for performance tests.

IV. Statutory and Executive Order Reviews

¹ Definitions relating to the Maryland HMIWI plan are included in COMAR 26.11.08.01. While this section contains definitions for Maryland's general incinerator regulations, EPA is only taking action on requirements related to HMIWI units. Definitions related to incinerators other than HMIWI units are outside of the scope of Maryland's plan and EPA's approval is strictly limited to Part 60 and 62 provisions relevant to existing HMIWI units.

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule for existing HMIWI units within the State of Maryland does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the section 111(d)/129 plan is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: November 16, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

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